

OFFICIAL COPY

Fresno, California

August 21, 2001

The City Council met in regular session at the hour of 9:00 a.m. in the Council Chambers, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Brad Castillo	Councilmember
	Jerry Duncan	Councilmember
	Sal Quintero	Councilmember
	Dan Ronquillo	Acting Council President
	Henry Perea	Council President

Dan Hobbs, City Manager
Hilda Cantu Montoy, City Attorney
Jesse Avila, Assistant City Attorney
Rebecca Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Pastor Andres Barraza, Cornerstone Spanish Ministry, gave the invocation, and City Ombudsman David Bearheart led the Pledge of Allegiance to the Flag.

PROCLAMATION OF "RON PATTERSON DAY" - COUNCILMEMBER BOYAJIAN

PROCLAMATION OF "FULTON MALL ART RESTORATION WEEK" - ACTING PRESIDENT RONQUILLO

The above proclamations were read and presented.

PROCLAMATION OF "BOB BAIDA DAY" - MAYOR AUTRY AND COUNCIL

Laid over one week.

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APPROVE MINUTES OF JULY 24 AND 31, 2001

On motion of Councilmember Castillo, seconded by Councilmember Calhoun, duly carried, RESOLVED, the minutes of July 24 and 31, 2001, approved as submitted.

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APPROVE AGENDA:

DIRECT STAFF TO SCHEDULE ON A HUD WORKSHOP (FOCUSING ON HOUSING) ON SEPTEMBER 25, 2001 - COUNCILMEMBER BOYAJIAN

Set for September 25th at 10:05 a.m.

DIRECT STAFF TO SCHEDULE ON AUGUST 28, 2001, APPEARANCE BY LOCAL LEGISLATORS IN SUPPORT OF THE CITY'S CONTRACT WITH CALPINE - COUNCILMEMBER DUNCAN

Set for August 28th at 2:15 p.m.

(5E) REQUEST RECONSIDERATION IN APPROVING THE REQUEST OF SAGASER, FRANSON & JONES LAW FIRM FOR A CONFLICT OF INTEREST WAIVER REGARDING CITY OF FRESNO/SCOTT ELLIS ENTERPRISES - SCOTT ELLIS (RE SUGAR PINE TRAIL) - ACTING PRESIDENT

At the request of Acting President Ronquillo and with Council consensus, the matter the was set for 10:30 a.m. this date.

(10:00 A.M.) HEARING ON THE FORMATION OF COMMUNITY FACILITIES DISTRICT NO. 5 - FOUNDRY PARK (*CONTINUE TO SEPTEMBER 18, 2001, AT 11:00 A.M.*)

Continued as noted.

On motion of Councilmember Duncan, seconded by Councilmember Castillo, duly carried, RESOLVED, the **AGENDA** hereby approved, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

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PROCLAMATION OF DAVID BEARHEART DAY” - MAYOR AUTRY AND COUNCIL

Read and presented.

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CONSIDER ADOPTION OF CONSENT CALENDAR:

(1A-6) REJECT BID FOR TRAFFIC SIGNAL UPGRADE AT TULARE AND VAN NESS AVENUES

Removed from the agenda at the request of staff; to be rescheduled in one week.

ADOPT CONSENT CALENDAR:

(1A-1) APPROVE THE EXTENSION OF THE TEMPORARY USE PERMIT WITH RUNWAY CATERING TO OCCUPY PREMISES IN THE GENERAL AVIATION TERMINAL LOCATED IN THE CONTROL TOWER AT THE FRESNO YOSEMITE INTERNATIONAL (FYI) AIRPORT, AND AUTHORIZE THE DIRECTOR OF TRANSPORTATION TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO EFFECTUATE SAID EXTENSION ON BEHALF OF THE CITY

(1A-2) * RESOLUTION NO. 01-256 - 10TH AMENDMENT TO AAR 01-200 APPROPRIATING \$40,200 FOR THE ROOFING OF THE FIRE STATION AT THE FRESNO YOSEMITE INTERNATIONAL (FYI) AIRPORT
1. AWARD A CONTRACT IN THE AMOUNT OF \$32,160 TO R. SIMONS COMPANY TO INSTALL A NEW ROOF SYSTEM ON THE FYI AIRPORT RESCUE & FIREFIGHTING STATION

(1A-3) * RESOLUTION NO. 01-257 - 5TH AMENDMENT TO AAR 01-200 APPROPRIATING \$21,200 TO FUND THE PURCHASE OF THREE LAP TOP COMPUTERS AND REMODEL THE POLICE DEPARTMENT'S RECORDS UNIT PUBLIC COUNTER TO IMPROVE SERVICE DELIVERY

(1A-4) REJECT THE BID RECEIVED TO CONSTRUCT WELL SITE IMPROVEMENTS AT PUMP STATION 307 AND DIRECT STAFF TO REVISE THE SPECIFICATIONS AS NECESSARY AND REBID THE PROJECT

(1A-5) AWARD A CONTRACT TO MULTISYSTEMS IN THE AMOUNT OF \$108,000 FOR THE PURCHASE OF SOFTWARE FOR TRANSIT INDUSTRY FIXED-ROUTE SCHEDULING, RUN-CUTTING AND ROSTERING

Gloria Torrez requested Council not approve item **1A-5** stating run-cutting would cause more problems, and requested Council reconsider their vote increasing FAX fares.

(1A-7) RESOLUTION NO. 01-258 - FORMING AN AGREEMENT BETWEEN THE POLICE DEPARTMENT AND THE STATE OF CALIFORNIA COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST) FOR THE FUNDING OF ADDITIONAL DRIVER TRAINING AND FORCE OPTION TRAINING EQUIPMENT; AND AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO THE AGREEMENT ON BEHALF OF THE CITY TO OPERATE THE REGIONAL SKILLS TRAINING CENTER

(1A-8) RESOLUTION NO. 01-259 - AUTHORIZING AN AGREEMENT WITH THE 21ST DISTRICT AGRICULTURAL ASSOCIATION TO PROVIDE POLICING AND LAW ENFORCEMENT SERVICES AT THE 2001 FRESNO FAIR; AND AUTHORIZE THE CITY MANAGER TO ENTER INTO THE AGREEMENT ON BEHALF OF THE CITY

(1A-9) RESOLUTION NO. 01-260 - SETTING A HEARING FOR SEPTEMBER 18, 2001, AT 10:15 A.M. TO CONSIDER THE FORMATION OF UNDERGROUND UTILITY DISTRICT (UUD) NO. FRE-77, PEACH AVENUE BETWEEN CLAY AND LYELL AVENUES

(1A-10) RESOLUTION NO. 01-261 - INTENT TO ANNEX TRACT NOS. 4493, 4743, 4961, 4979 AND 5006 TO THE CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 29, AND SETTING THE PUBLIC HEARING FOR SEPTEMBER 25, 2001, AT 10:00 A.M.

(1A-11) APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH OMNI-MEANS, LTD., IN THE AMOUNT OF \$76,492 FOR CIVIL ENGINEERING SERVICES TO DESIGN INTERSECTION IMPROVEMENTS AT BLACKSTONE AND BULLARD AVENUES, AND AUTHORIZE THE CITY MANAGER/DESIGNEE TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

(1A-12) RESOLUTION NO. 01-262 - APPROVING THE SUMMARY VACATION OF A PORTION OF THE RELINQUISHMENT OF ACCESS RIGHTS ALONG THE EAST SIDE OF BLACKSTONE AVENUE NORTH OF NEES AVENUE

(1A-14) APPROVE ACQUISITION OF A STREET EASEMENT FROM PROPERTY AT 6761 N. VAGEDES FOR \$2,800, AND AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE ALL DOCUMENTS NECESSARY TO COMPLETE THE PURCHASE THROUGH ESCROW

(1A-16) RESOLUTION NO. 01-263 - 11TH AMENDMENT TO AAR 01-200 APPROPRIATING \$34,400 FOR THE CHAFFEE ZOO WATER LINE PROJECT; \$54,900 TO COMPLETE DESIGN WORK FOR THE LIONS SKATE BOARD PARK PROJECT; AND \$50,000 FOR THE HOLMES PLAYGROUND TOT LOT PROJECT

(1A-17) RESOLUTION NO. 01-264 - AUTHORIZING THE SUBMITTAL OF THE 2ND CYCLE GRANT APPLICATION TO THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD FOR \$50,000, WHICH IN COMBINATION WITH ADDITIONAL FUNDING OF \$61,445 PROVIDED FROM A SEPARATE PROPOSITION 12 NON-COMPETITIVE PER-CAPITA BLOCK GRANT, WILL PROVIDE A TOTAL PROJECT BUDGET OF \$111,445 TO REFURBISH THE CHILDREN'S PLAY AREA AT FINK-WHITE PLAYGROUND; AND AUTHORIZE THE PARKS AND RECREATION DIRECTOR/DESIGNEE TO CONDUCT ALL NEGOTIATIONS AND EXECUTE AND SUBMIT ALL DOCUMENTS NECESSARY FOR THE COMPLETION OF THE PROJECT

(1A-19) ADOPT THE MEMORANDUM OF UNDERSTANDING (MOU) WITH THE CITY OF FRESNO MANAGEMENT EMPLOYEES ASSOCIATION (CFMEA)

a. * RESOLUTION NO. 01-265 - 3RD AMENDMENT TO SALARY RES. 01-199 RE-TITLING THE CLASS OF LAW OFFICE SUPERVISOR TO LAW OFFICE MANAGER, AND MOVE FROM A FIVE STEP SALARY RANGE TO AN E-3 RANGE

(1A-22) APPROVE EXPENDITURE OF \$1,000 OF DISTRICT 5'S GENERAL FUND 15% NON-INFRASTRUCTURE TO FUND THE FRESNO JUNIOR HANDBALL CLUB - COUNCILMEMBER QUINTERO

(1A-23) (FOR INTRODUCTION AND ADOPTION) APPROVE APPOINTMENTS OF JEANETTE JURKOVICH AND SCOTT DOW WILEY AND THE REAPPOINTMENTS OF SCOTT VINCENT, LISA SCHUMACHER, WILSON HANNA, KEVIN ENNS-REMPEL AND GOLDIE LEWIS TO THE HISTORIC PRESERVATION COMMISSION - MAYOR AUTRY

On motion of Councilmember Duncan, seconded by Acting President Ronquillo, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

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(9:00 A.M.) RESOLUTION NO. 01-266 - SUPPORTING SB 901 (COSTA/REYES) ESTABLISHING LEGISLATIVE INTENT TO EXPLORE UTILIZING A MULTI-GOVERNMENTAL JOINT POWERS AGREEMENT (JPA) FOR THE SITING AND SHARED USE OF GOVERNMENT BUILDINGS IN DOWNTOWN FRESNO - ACTING PRESIDENT RONQUILLO

1. DIRECT STAFF TO BEGIN DEVELOPING A JPA WITH REPRESENTATIVES OF THE STATE DEPARTMENT OF GENERAL SERVICES, THE COUNTY OF FRESNO, THE FRESNO REDEVELOPMENT AGENCY, AND OTHER INTERESTED PARTIES

Reviewed by Acting President Ronquillo who stated downtown was being established as a government center and associated needs and responsibilities needed to be addressed, and stated a JPA was an effort to try to address issues and possibly share costs, and made a motion to adopt the resolution and direct staff as outlined, which motion was seconded and acted upon after brief discussion.

Barbara Hunt, 944 “F” Street; spoke to the issue.

Acting President Ronquillo and Councilmember Duncan responded to questions of President Perea relative to what the bill would provide for (with President Perea noting funding was not attached to it), if the creation of a JPA would provide the ability to generate funding or bonding, and how a JPA differed from “just picking up the phone” and requesting discussions **(2 - 0)**. President Perea concurred this was a great idea but emphasized the main piece was funding to fix the problems and he wanted to see included the ability/power of all the bodies to start bonding. Upon question, Susan Good, representing Senator Costa’s office, stated the purpose of the legislation was to explore the opportunity of shared use and financing methods and added this was monumental legislation as nothing like this had been done in the State in the past.

On motion of Acting President Ronquillo seconded by Councilmember Duncan, duly carried, **RESOLVED**, the above entitled Resolution No. 01-266 hereby adopted, and staff directed to begin developing a Joint Powers Agreement with representatives of the State Department of General Services, the County of Fresno, the Fresno Redevelopment Agency, and other interested parties, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

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(9:30 A.M.) REQUEST APPROVAL FOR ONE-HOUR FREE PARKING IN PARKING LOT NO. 2 IN PARKING MAINTENANCE DISTRICT NO. 1 - COUNCILMEMBER QUINTERO

Briefly reviewed by Councilmember Quintero who stated when free parking was eliminated Fresno County clients -- the people who could least afford to pay for parking -- were being adversely affected.

Speaking to the issue were: Gary Carozza, Fresno County Health Department, Human Services System, who requested free parking just for parking lot #2 and advised of the services the County provided at little or no cost and their investments downtown over the past five years; Dr. Hadden, County Health Officer, who stressed people needed to be encouraged to receive proper medical care; Barbara Hunt, 944 “F” Street, opposed to the request; and Victoria Gonzales, Downtown Association, who requested Council not take action and look into the issue further including a validation program.

Councilmember Quintero made a motion for staff to meet with Fresno County, the Downtown Association and any other interested parties on the feasibility of establishing a one-hour free parking validation program.

Discussion ensued with Acting President Ronquillo and Councilmember Boyajian stating they sympathized with the people affected but stressed parking was a big problem, commented on the cost to the City and the need to offset those costs, questioned the revenues that would be lost with the free parking with an Ampco representative responding, and cited the decayed structures and the need for Fresno County to assist with the parking problem.

Upon call, Councilmember Quintero's motion died for lack of a second. Acting President Ronquillo stated he would continue to work with Supervisor Arambula on the parking issue. There was no further discussion.

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(9:45 A.M.) DIRECT CITY ATTORNEY TO ASSIGN STAFF TO ASSIST IN RESEARCH AND PREPARATION OF AN ITEM FOR THE MARCH 2002 BALLOT FOR PUBLIC VOTE RELATING TO PRESERVING EATON PLAZA AS A PARK SPACE - ACTING PRESIDENT RONQUILLO

Reviewed by Acting President Ronquillo who stated a promise was made in 1966 for a park, noted a Council majority supported moving forward with the federal courthouse on the site but stressed a lots of citizens were opposed, and stated it was imperative that the citizens vote on the issue and make a decision.

Speaking to the issue and/or in support of keeping Eaton Plaza as a park space were: Barbara Hunt, 944 "F" Street; William Donleavy, 2520 W. Stuart; Bob Dwyer, 1,000 Friends of Fresno, 4781 E. Gettysburg; Mike Lash, 1693 S. Helm; and Coke Hallowell 19623 Rd. 211, Friant.

Councilmember Calhoun noted a letter had been received from the State informing the City that due to the subject item and opposition they were backing away from the site and looking at alternatives and stated for that reason he would not support placing the matter on the ballot as it was basically resolving itself and was not necessary now.

Acting President Ronquillo made a motion, seconded by Councilmember Quintero, to direct staff as outlined.

Councilmember Duncan read a letter into the record from Anne Speake in opposition to placing the matter on the ballot, a copy of which is on file in the office of the City Clerk; stated the 4-3 decision to move forward with the courthouse should continue emphasizing the State was willing to invest millions of dollars and Council needed to see if the site would work out; and advising it would cost \$30-\$35,000 to place the mater on the ballot and stressed that action was unnecessary. Councilmember Boyajian stated he voted to move forward with the processes because the City was not making the site into a park; stressed he wanted to see the Appellate Court downtown; stated and EIR needed to be conducted **(3 - 0)** and added he would not compromise the integrity of the Water Tower in any way, questioned why bonding had not taken place over the past 50 years (with Assistant City Attorney Avila responding), and clarified Council supported a park but no one had made the effort and requested Council let the process continue.

Acting President Ronquillo stated "idle threats" from a legislator that the courthouse be located downtown or there would be no funding were not fair and explained; emphasized the high security of the Appellate Court would not be compatible to an open public plaza; and stressed it needed to be made clear that if Council continued in the direction previously voted upon the public park would be lost. Councilmembers Calhoun and Duncan responded to questions of Councilmember Quintero relative to the letter from the State backing away from the Eaton site and if they were, in fact, not going to proceed with the that site.

A motion of Acting President Ronquillo, seconded by Councilmember Quintero, to direct the City Attorney to assign staff to assist in research and preparation of an item for the March 2002 ballot for public vote relating to preserving Eaton Plaza as a park space failed, by the following vote:

Ayes : Quintero, Ronquillo
Noes : Boyajian, Calhoun, Castillo, Duncan, Perea
Absent : None

Acting President Ronquillo advised a citizens initiative would begin as soon as possible to obtain the required signatures to place the matter on the ballot.

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(10:30 A.M.) AUTHORIZE THE EXECUTION OF AMENDMENTS TO AGREEMENTS WITH KOCHERGEN FARMS AND SUNSET WASTE PAPER, INC., FOR GREEN WASTE TRANSPORTATION AND PROCESSING SERVICES

Interim Director of Public Utilities McIntyre reviewed the staff report as submitted. Acting President Ronquillo left the meeting at 10:50 a.m. and returned after the recess.

Barbara Hunt, 944 "F" Street, spoke to the issue.

Mr. McIntyre responded to questions and a request of Councilmember Quintero relative to the proposal process timeline and responding to concerns from a company on the process.

On motion of Councilmember Duncan, seconded by Councilmember Castillo, duly carried, **RESOLVED**, the Public Utilities Director/Designee authorized to negotiate final language and execute, subject to approval of the terms and conditions thereof by the Public Utilities Director/Designee and the City Attorney's Office, the following: (1) amend the contract, dated 6/20/01 with KOCHERGEN FARMS dba Kochergen Farms Composting, to extend green waste processing services to January 7, 2002, with option to extend for up to two additional one-month periods, if necessary, and reduce the tipping fee to \$19.00 per ton; (2) amend the contract, dated 5/11/01, as amended 6/20/01, with SUNSET WASTE PAPER, INC., to extend green waste transport services to January 7, 2002, with option to extend for up to two additional one-month periods, if necessary; and (3) exercise the option to extend, if necessary, for up to two one-month periods, by the following vote:

Ayes : Boyajian, Calhoun, Castillo, Duncan, Quintero, Perea
Noes : None
Absent : Ronquillo

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RECESS - 10:56 A.M. - 11:05 A.M. All members were present.

(11:00 A.M.) PROVIDE DIRECTION REGARDING THE REQUEST OF SUNSET WASTE FOR AN EXTENSION OF THEIR CONTRACT WITH THE CITY, AND AUTHORIZE STAFF TO NEGOTIATE AN AMENDMENT WITH HILTON, FARNKOPF AND HOBSON, LLC

Interim Public Utilities Director McIntyre reviewed the issue including the background, stated action this date would not be final and clarified whether staff returned with an amended contract would be dependent upon reaching mutually acceptable terms including length of the contract, advised of the pros and cons of re-opening the contract, and advised Mr. Hilton was present to answer any questions specific to his analysis of the contract and fiscal implications.

Speaking in support of Sunset Waste were: Barbara Hunt, 944 “F” Street; and Mary Brown, President, West Fresno Neighborhood Association, 1517 E. Atchison.

At this point proceedings were briefly interrupted to consider the following matter which was earlier scheduled for 10:30 a.m.

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(5E) REQUEST RECONSIDERATION IN APPROVING THE REQUEST OF SAGASER, FRANSON & JONES LAW FIRM FOR A CONFLICT OF INTEREST WAIVER REGARDING CITY OF FRESNO/SCOTT ELLIS ENTERPRISES - SCOTT ELLIS (RE SUGAR PINE TRAIL) - ACTING PRESIDENT

Acting President Ronquillo noted he was absent during a prior vote on the issue and made a motion to reconsider prior action.

Speaking to the issue were: Barbara Hunt, 944 “F” Street; and Ken Franson, 345 Pollasky, Clovis, who requested the waiver be approved.

On motion of Acting President Ronquillo, seconded by Councilmember Duncan, duly carried, RESOLVED, reconsideration of Council action on the request of Sagaser, Franson & Jones Law Firm for a conflict of interest waiver hereby approved, by the following vote:

Ayes	:	Boyajian, Duncan, Quintero, Ronquillo, Perea
Noes	:	Calhoun, Castillo
Absent	:	None

On motion of Acting President Ronquillo, seconded by Councilmember Duncan, duly carried, RESOLVED, the request for a conflict of interest waiver by the law firm of Sagaser, Franson & Jones regarding City of Fresno/Scott Ellis Enterprises - Scott Ellis (re Sugar Pine Trail) hereby approved, by the following vote:

Ayes	:	Boyajian, Duncan, Quintero, Ronquillo, Perea
Noes	:	Calhoun, Castillo
Absent	:	None

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**(11:00 A.M.) REQUEST OF SUNSET WASTE FOR AN EXTENSION OF THEIR CONTRACT WITH THE CITY
(CONTINUED FROM EARLIER)**

Continued speakers were: Harlan Kelly, 3378 W. Kearney Boulevard, and Attorney Val Saldana, representing Sunset Waste **(4 - 0)**, support; Richard Caglia, Industrial Waste and Salvage, 3280 S. Orange, opposed; Myser Keels, 1060 Jones St., support; Mark Scozzari, 1625 E. Shaw #130, opposed; Ed Peelman, 3315 W. American, support; Jerry Murphey, Waste Management, 4333 E. Jefferson, opposed; and Alex Correa, representing Local 39 and solid waste employees, support.

Upon call, no one else wished to be heard and President Perea closed the public testimony portion of the issue.

Extensive discussion ensued with Assistant City Attorney Avila, President Perea, Mr. McIntyre and Mr. Caglia responding to questions of Councilmembers Calhoun and Boyajian and/or clarifying issues relative to approval of the contract extension *not* being a part of the requested action this date, what “other options” staff would look at, if competitive bidding would be considered, terms of the original contract, if the RFP called for, and if bids were received, for both five and ten year contracts, if Mr. Caglia’s company submitted bids for both the five and ten year contracts, why Mr. Caglia felt a 20-year contract was unfair, and how staff determines when some contracts can be re-opened and not others.

Councilmember Duncan stated this was a classic dilemma situation in that the City needed to look at every option available to improve its financial condition yet a five-year contract had been entered into, presented questions relative to whether competitive bidding would be required if enough changes occurred after negotiations, if Sunset Waste had shown their capability to pay off their loan to their financial institution and if their financial institution took the volatility of the market into consideration when Sunset submitted their business plan, and what the City Manager’s position was on the issue, with City Attorney Montoy, Mr. Lisenko of Sunset Waste, and City Manager Hobbs responding. Councilmember Duncan reiterated this was a tough situation, stated he wanted the shortest possible contract term to see what was out there at the end of that term and added he was not interested in a city-owned facility as an option, and made a motion, “with great reluctance”, to approve staff’s recommendation with amendments, which motion was seconded and acted upon after additional lengthy discussion.

Mr. Caglia, Mr. McIntyre, Mr. Murphey and Ms. Montoy responded to questions of Councilmembers Quintero and Ronquillo relative to measures/checkpoints in place for contracting with other municipalities (**5 - 0**), if any audits had been conducted on the 5-year contract, Mr. Caglia requesting competitors questions and remarks be included during the study period, the continuous changes in the recycling and commodity markets, assurance on price terms if Sunset were to sell, why the consulting firm was retained by the City and who would pay for their services, and who the lead City negotiator was in contract negotiations and if there was any conflict of interest. Acting President Ronquillo stated he was very disappointed and perplexed with the issue and elaborated, commented on the need to do the best thing for business entities who make big investments and also with concerned competitors, and stated he would support the motion as it was a way to revisit the issue and renegotiate and added Sunset would have to be very competitive the next time.

Councilmember Calhoun stated he supported staff’s recommendation and emphasized all options needed to stay on the table, and offered a friendly amendment to Councilmember Duncan’s motion to delete the amendments. Upon question, Councilmember Duncan stated he would not accept the amendment.

Mr. Manager Hobbs concurred this was a tough policy call and briefly commented on the issue, clarified Sunset Waste -- not staff -- generated this issue and he felt it was unfortunate to criticize staff, and stated when the request was first presented to him his position was a contract was a contract.

Ms. Montoy, Councilmember Duncan and Mr. McIntyre responded to additional questions and/or comments of Councilmembers Quintero, Ronquillo and Castillo and/or clarified issues relative to what would happen if the request failed, what the difference was between staff’s recommendation and staying with the remaining (shortest term) 3-year contract, staff having no pre-conceived notion on the term of the extension if approved, if opening up a new RFP was an option, how the best deal could be found with a closed process, Acting President Ronquillo clarifying his

relative to how Council had been misinformed by staff on the convention center and parking revenue financial issues, amount that would go back into the solid waste enterprise fund yearly with a 15-year extension, contract revenue share, and if tipping fees could be re-negotiated. Councilmember Castillo stated the City Council was the policy-maker, clarified the low bid was obtained and re-negotiations were being requested to see if the City could get an even lower deal, and concluded stating he did not see how Council could not support the request.

An audience member requested to speak again whereupon the following action was taken:

A motion of Councilmember Quintero, seconded by Councilmember Boyajian, to re-open public testimony failed, by the following vote:

Ayes	:	Boyajian, Duncan, Quintero
Noes	:	Calhoun, Castillo, Ronquillo, Perea
Absent	:	None

Upon request for clarification, President Perea stated the motion did not include considering competitors in the review study, and briefly commented on the issue stating the request was legal and he saw this as a tremendous opportunity to see if a better deal could be reached to benefit taxpayers.

On motion of Councilmember Duncan, seconded by President Perea, duly carried, RESOLVED, the Public Utilities Director authorized to (1) notify Sunset Waste of the City's interest in re-negotiating the terms of the existing contract for processing recyclable materials, and (2) negotiate a contract amendment with the consulting firm of Hilton, Farnkopf and Hobson, LLC, to support and represent the City in negotiations with Sunset Waste Paper, Inc., *and, in addition*, Sunset Waste directed to pay for the consulting firm and staff directed to exclude a city-run facility as an option and focus on the shortest term possible in negotiations, by the following vote:

Ayes	:	Castillo, Duncan, Ronquillo, Perea
Noes	:	Boyajian, Calhoun, Quintero
Absent	:	None

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LUNCH RECESS - 12:50 P.M. - 2:05 P.M. Councilmembers Castillo and Quintero arrived later.

(2:00 P.M. #1) CONSIDER CONTESTED CONSENT CALENDAR ITEMS:

(1A-21) APPROVE THE SPECIAL HAZARD USER PERMIT COST RECOVERY PROGRAM

a. * RESOLUTION NO. 01-267 - 386TH AMENDMENT T MFS RES. 80-420 TO REQUIRE ANNUAL PAYMENT OF ANNUAL RENEWAL FEES FOR SPECIFIED HAZARDOUS MATERIALS PERMITS

Councilmember Calhoun stated he supported the issue and questioned why the matter was vetoed in the past and why the veto was not overridden, with Fire Chief Smith responding.

On motion of Councilmember Calhoun, seconded by Acting President Ronquillo, duly carried, RESOLVED, the Special Hazard User Permit Cost Recovery Program hereby approved, and the above entitled Resolution No. 01-267 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Ronquillo, Perea
Noes : None
Absent : Castillo, Quintero

(1A-13) ADOPT RESOLUTION OF INTENTION NO. 1023-D TO VACATE N. HARRISON AVENUE BETWEEN “H” STREET AND BELMONT AVENUE AND AN ALLEY SOUTH OF BELMONT BETWEEN HARRISON AND “H” STREET, AND SETTING THE PUBLIC HEARING FOR SEPTEMBER 18, 2001, AT 10:30 A.M.

On motion of Acting President Ronquillo, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution of Intention No. 1023-D setting the public hearing on the vacation of N. Harrison between “H” Street and Belmont Avenue and an alley south of Belmont between Harrison and “H” Street for September 18th at 10:30 a.m. hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Ronquillo, Perea
Noes : None
Absent : Castillo, Quintero

(1A-18) RATIFICATION OF PEOPLESOFT AGREEMENT AMENDMENTS AND APPROVAL OF AMENDMENT FOR EXCHANGE OF TRAINING AND DEVELOPER KITS FOR TRAINING UNITS

On motion of Acting President Ronquillo, seconded by Councilmember Duncan, duly carried, RESOLVED, PeopleSoft agreement amendments Schedules 2, 3 & 4 dated March 24, 1999, Amendment #1 to Schedule 2 dated June 30, 1999, and unnumbered Schedule dated March 16, 2000 hereby ratified; a PeopleSoft agreement amendment to exchange purchased training and developer kits for training units hereby approved; and the Director of Administrative Services/Designee authorized to sign subsequent amendments to the PeopleSoft License and Services Agreement, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Ronquillo, Perea
Noes : None
Absent : Castillo, Quintero

(1A-15) RESOLUTION NO. 01-268 - APPROVING AN APPLICATION FOR BLOCK GRANT FUNDS FROM THE ROBERTI-Z’BERG-HARRIS URBAN OPEN SPACE AND RECREATION PROGRAM UNDER THE SAFE NEIGHBORHOOD PARKS, CLEAN WATER, CLEAN AIR AND COASTAL PROTECTION BOND ACT OF 2000

President Perea and Acting President Ronquillo stated there was an additional \$1 million in the grant that had not been allocated and there was an opportunity to use that money for construction of a linear park on BNSF property (currently in negotiations with the City to purchase) near the Amtrak Station. Councilmember Quintero arrived 2:10 p.m. Upon request of President Perea, Parks & Recreation Analyst Milavich commented on the additional funds and the proposed uses. President Perea stated before any decision was made on the unallocated funds Council discussions were needed since the City was purchasing the BNSF property.

Discussion ensued with Mr. Milavich and Assistant City Manager Souza responding to questions of Acting President Ronquillo, President Perea and Councilmember Boyajian relative to the proposed uses for the funds, matching funds, appropriate time to bring the expenditure of the \$1 million back to Council for consideration **(6 - 0)**, who currently owned the property, if the grant writer was in place, and acquisition price and terms. Councilmember Duncan briefly commented on the issue and expressed his support and Mr. Milavich responded briefly to questions of Councilmember Quintero relative to whether any projects on-line would be affected and if the funds had been targeted for anything else.

On motion of President Perea, seconded by Acting President Ronquillo, duly carried, RESOLVED, the above entitled Resolution No. 01-268 hereby adopted, and the Parks and Recreation Director authorized to execute and submit all documents necessary for completion of the purpose of securing grant funds and to implement and carry out the purpose specified in the applications, all subject to prior approval as to form by the City Attorney's office, by the following vote:

Ayes	:	Boyajian, Calhoun, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	Castillo

(1A-20) RESOLUTION NO. 01-269 - AUTHORIZING THE INTERIM CONTROLLER, TREASURY OFFICER, PRINCIPAL ACCOUNTANT AND SENIOR ACCOUNTANT-AUDITOR AS FINANCE OFFICERS OF THE CITY TO SIGN CITY CHECKS AND VARIOUS INVESTMENT AND COMMERCIAL BANKING DOCUMENTS, AND PROVIDE VERBAL INSTRUCTION AS REQUIRED FOR THE PRUDENT FINANCIAL ADMINISTRATION AND SAFEKEEPING OF CITY FUNDS

On motion of Acting President Ronquillo, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Resolution No 01-269 hereby adopted, by the following vote:

Ayes	:	Boyajian, Calhoun, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	Castillo

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(2:00 P.M. #2) CLOSED SESSION:

(A) CONFERENCE WITH LEGAL COUNSEL - FRIEND-OF-THE-COURT PARTICIPATION - CASE NAME: BARDEN V. CITY OF SACRAMENTO - AMICUS BRIEF

(B) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION - SIGNIFICANT EXPOSURE OF LITIGATION - CASE NAMES:

1. JOHN AND LUPE FLORES DBA YAWEH'S RECYCLING V. COF
2. LONG CONSTRUCTION, INC., V. COF
3. STATE OF CALIFORNIA V. COF
4. SAN JOAQUIN VALLEY TAXPAYERS ASSOCIATION V. COF

(C) CONFERENCE WITH LEGAL COUNSEL - DECIDING WHETHER TO INITIATE LITIGATION - CASE NAME: ONE POTENTIAL CASE - CASE NAME UNSPECIFIED (DISCLOSURE OF TITLE WOULD JEOPARDIZE ABILITY TO CONCLUDE EXISTING SETTLEMENT NEGOTIATIONS TO CITY'S ADVANTAGE).

(D) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAME: CLAYTON TURNER V. COF

(D) CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATIONS:

1. INTERNATIONAL UNION OF OPERATING ENGINEERS, STATIONARY ENGINEERS LOCAL 39 (LOCAL 39)
2. INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL 100 (IBEW)

The City Council met in closed session in Room 2125 at the hour of 2:25 p.m. to consider the above issues and reconvened in regular open session at 3:58 p.m.

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(2:10 P.M.) REQUEST TO REVISE UGM SERVICE AREA BOUNDARIES IN SOUTHEAST FRESNO TO HAVE SERVICE AREAS DISTINCTLY WITHIN COUNCIL DISTRICT 5 - COUNCILMEMBER QUINTERO

Councilmember Quintero stated his intent was to look into setting up a program whereby southeast Fresno UGM dollars would not be mixed up with the existing pot, and advised staff's report did not seem to cover what he was looking for as expressed in a past meeting, with Supervising Engineer Phillips clarifying the report tried to convey most of the fee collections in the southeast corner stayed in the southeast corner.

Lengthy discussion ensued on the request, keeping service area (SA) boundaries in line with Council district boundaries, cost to revise District 5's SA boundaries, concern with accountability of UGM dollars, if the request to revise the boundaries had been finalized with the City Attorney's office, need for Council direction to revise District 5's SA boundaries, request for staff to provide a breakdown and balance of UGM accounts in all districts, southeast Fresno becoming the new growth area and the intent and need for southeast Fresno to become a pilot program, taking southeast Fresno out of the program being a policy determination of Council, the matter being premature and concern with singling out one district, if fees collected in other areas benefitted other districts, support for the existing City-wide process, need for clear Council direction on the issue, the need to "fix" the UGM program first before acting on the request, and timeline for the overall UGM report, with Public Works Director Williamson, City Attorney Montoy and City Manager Hobbs responding to questions and/or clarifying issues.

Councilmember Quintero withdrew his request and advised he would wait for the report in 45 days and meet with staff in the interim on his concerns. Brief discussion ensued on older areas, need for a plan to proceed with development, the need for staff to take the time necessary to provide a thorough report and not be rushed, and the general plan timeline. There was no further discussion.

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(5A) DIRECT CITY ATTORNEY TO RESEARCH LEGALITY OF REQUIRING CITY EMPLOYEES TO PROVIDE SWORN TESTIMONY WHEN RESPONDING TO COUNCIL QUESTIONS ON BUDGET ISSUES - COUNCILMEMBER CASTILLO

Reviewed by Councilmember Castillo who advised Council had the authority to subpoena employees and he wanted to take the matter one step further and have the authority have employees sworn in under oath due to problems encountered in the past in dealing with taxpayer money and questioned if a Charter change was required. City Attorney Montoy stated she knew of no legal authority to place employees under oath, noted there could be First Amendment rights, and advised the issue would have to be thoroughly researched. Councilmember Castillo added some employees were threatened with their jobs being on the line and made a motion to direct the City Attorney as outlined above.

City Manager Hobbs stated a memo was sent out August 9th with 17 suggestions on how to strengthen the financial management and that the budget format was being revamped which would provide for more accurate information; relative to truthfulness emphasized he would not tolerate anyone working for the City who did not tell the truth and reiterated he would be responsible for that; and advised his concern was, and requested Council consider, the reactions of employees and prospective employees (i.e. the new Controller) who would question if they would have deal with charges of perjury if that type of requirement were in place.

Ms. Montoy responded to questions of Councilmember Boyajian relative to how such a requirement would be enforced (with Ms. Montoy stating it would be difficult), if Council could serve as a judiciary at some point, and the need for something non-judicial.

Councilmember Castillo requested staff provide alternatives and suggestions on what could be done to insure accurate information is received during budget hearings **(7 - 0)** if placing someone under oath was not feasible. Brief discussion ensued and Ms. Montoy stated she and the city manager would provide a report on staff's and Council's obligations when dealing with financial matters before any further extreme research. Councilmember Castillo requested the issue of receiving information in a timely manner also be included, and Mr. Hobbs stated a meeting of the Council Fiscal Responsibility Committee would be set up with 30 days to discuss the matter further.

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(3A) REPORT FROM THE PUBLIC WORKS DEPARTMENT REGARDING FUNDING OPTION FOR THE THERMAL PLASTIC PAINT PROGRAM - INITIATED BY COUNCILMEMBER CALHOUN AND PRESIDENT PEREA

President Perea stated direction was not given to obtain the funds from Council infrastructure budgets with Public Works Director Williamson responding. Noting one Council district was not participating, Councilmember Duncan advised he also would not participate. Councilmember Calhoun stated he thought there was agreement since Council had expressed their support and stated further discussion was needed since some Councilmembers were bailing out.

Discussion ensued on support for the program and funds needing to be found elsewhere, if only Council districts who provided funds would benefit, how much of the city would benefit if the program were to be funded, if grants were looked into as a funding source, and number of crosswalks that would re-striped for \$30,000, with Mr. Williamson and an unidentified staff member responding.

Acting President Ronquillo made a motion to obtain the funds from the remaining five consenting Council district's, which motion was seconded by Councilmember Castillo, whereupon City Attorney Montoy advised the item as listed on the agenda was scheduled as a report only and not set up for action this date.

Lengthy discussion ensued on support for the program and the need to reschedule the matter for action, original direction being to return with funding options, public works' \$98 million budget and considering that as an option, other funding sources including city departments' 10% contingency, clarification on the contingency funds, the contingency not being a legitimate option, impact to city services if the contingency was used, difficulty of utilizing Council infrastructure funds, and Capital Improvement Program dollars being a possible source.

Councilmember Duncan reiterated direction was for staff to return with funding options and what they were willing to give up or re-prioritize and there was no further discussion.

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(5B) COUNCIL APPOINTMENT TO THE HEALTH AND WELFARE TRUST - PRESIDENT PEREA

Laid over one week at the direction of President Perea.

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(5C) REQUEST CITY MANAGER TO DIRECT APPROPRIATE STAFF TO MEET WITH SPCA OFFICIALS TO ESTABLISH AN OFFICIAL STREET NAME (RAMBO LANE) FOR THE ENTRANCE DRIVE TO THE SPCA FACILITY - COUNCILMEMBER QUINTERO

Briefly reviewed by Councilmember Quintero.

On motion of Councilmember Quintero, seconded by Councilmember Duncan, duly carried, **RESOLVED**, the City Manager requested to direct appropriate staff to meet with Councilmember Quintero's office and SPCA officials to establish an official street name (Rambo Lane) for the entrance drive to the SPCA facility, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

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(5D) DISCUSS ESTABLISHING A POLICY/CRITERIAL FOR A FAIR AND EQUITABLE DISTRIBUTION OF THE YEARLY CDBG FUNDS IN EACH COUNCIL DISTRICT - COUNCILMEMBER BOYAJIAN

Briefly reviewed by Councilmember Boyajian who stated he wanted a more **(8 - 0)** equitable and mathematical procedure to distribute the funds clarifying the districts with the most CDBG areas should get the most but all districts should receive some funding, even those with no or little CDBG areas.

Acting President Ronquillo stated Measure "C" and Agency funding could be called enhancement dollars but he felt CDBG money should be distributed percentage-wise to the districts with CDBG areas with the dollar amount based on the percentage and the remaining funds divided among the remaining districts.

Councilmember Duncan made a motion to refer the matter to the Council Fiscal Responsibility Committee (CFRC) to be addressed further and return with a recommendation, which motion was seconded and acted upon after additional discussion on the need to strategize ways to receive more dollars instead of fighting over what was received, concern with referring the matter to the CFRC for a recommendation, politicizing the matter, need for staff input in the process, need to wean some departments off CDBG funds, the entire CDBG budget being at issue, the Consolidated Plan being in place and need for discussion if changes are desired, total entitlement, and the need for further discussion at all levels due to policy implications and obligations that have to be met.

On motion of Councilmember Duncan, seconded by Councilmember Boyajian, duly carried, RESOLVED, the matter referred to the Council Fiscal Responsibility Committee (CFRC) to be addressed and report back with a recommendation n distributing yearly CDBG funds to each Council district, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

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UNSCHEDULED ORAL COMMUNICATIONS:

APPEARANCE BY JAVIER FLORES EXTENDING AN INVITATION TO THE GATORADE PUNT, PASS AND KICK EVENT ON NOVEMBER 23RD AT FRESNO STATE AND REQUESTING FINANCIAL ASSISTANCE WITH REQUIRED FEES

Invitation and request made; no action taken.

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(5:30 P.M.) HEARING TO CONSIDER TEXT AMENDMENT NO. TA-00-02 RELATING TO GROUP HOUSING FACILITIES (GROUP HOMES)

1. * BILL - AMENDING THE TEXT OF THE FRESNO MUNICIPAL CODE RELATING TO GROUP HOUSING FACILITIES (ALTERNATIVE 1 - CITY COUNCIL)

2. * BILL NO. B-68 - AMENDING THE TEXT OF THE FRESNO MUNICIPAL CODE RELATING TO GROUP HOUSING FACILITIES (ALTERNATIVE 2 - PLANNING AND DEVELOPMENT DEPARTMENT DIRECTOR)

President Perea announced the time had arrived to consider the issue and opened the hearing. City Attorney Montoy advised no conflict of interest was found with Councilmember Castillo and his employer, and President Perea advised no conflict of interest was found with his sitting on the Board of Directors with Genesis.

Councilmember Boyajian advised the issue of no governing board to address neighborhood concerns came to light while he was campaigning and briefly commented on the need for such a board.

Development Director Yovino and Planner Stiglich gave an overview of the issue, stated the ordinance was a good one and was supported by all the planning committees, distributed draft findings to Council for their consideration, and reviewed the ordinance provisions as contained in the staff report as submitted and recommended Council introduce Alternative #2.

Speaking to the issue and/or in support of the ordinance were: Dirk Poeschel, 2310 Tulare Street, on behalf of CAP; **(9 - 0)** Mike Clinton, 209 N. Calaveras; Dallas Debatin, 109 N. Glen, who submitted written material, copies of which are on file in the office of the City Clerk; Robert Macias, 115 N. Calaveras; Ruth Ratzlaf, 727 E. Swift; Roselyn Clark, Chair, Fulton-Lowell Implementation Committee; and Becky Foore-Hayden, 248 N. Van Ness, Vice Chair, Fulton-Lowell Implementation Committee.

Upon call, no one else wished to be heard and President Perea closed the hearing.

City Attorney Montoy stated one area of concern dealt with the findings, requested the hearing to adopt the ordinance be set for 30 to 45 days so staff could further review the findings, and advised her office was more comfortable with a 300 foot separation rather than 500 feet.

Mr. Yovino responded to questions of Councilmember Quintero relative to whether the CUP process included a review and recommendation from the police department similar to the alcohol CUP, requirements for a CUP, the 500 foot separation criteria for number of clients, and notification process.

Acting President Ronquillo commended staff and neighborhood residents for all their work and efforts to regulate and rid negativity in neighborhoods and made a motion (and subsequently allowed Councilmember Boyajian to make the motion) to approve staff's recommendation, as amended, with a 300 foot separation and repeal of Section 6-108, which motion was seconded and later acted upon.

Mr. Yovino and Ms. Montoy responded to questions of Councilmember Duncan relative to specific ordinance provisions, number of residents, group homes with state licences being exempt from the ordinance, how group homes with lack of proper entitlements would be enforced, basis for the 500 foot separation, any concerns with a 300 foot separation, and cost for a state license, with Councilmember Duncan speaking in support.

At this point Councilmember Boyajian was allowed to make the motion which was then seconded by Acting President Ronquillo.

Brief discussion ensued on why no CUP was required for licensed group homes, how licensed homes with 6 residents or less who cause problems would be dealt with, basic requirements for the CUP, remedy for the group home on Calaveras, how non-conforming homes would be dealt with, problems with Alternative Ordinance #1, if Fresno County had a similar ordinance in place, need to address non-complying homes in a timely manner and options **(10 - 0)**, CUP criteria and questions that would be asked of applicants, how de-licensing worked, if the State would be notified when CUP's are issued, and if CUP's would come before Council.

On motion of Councilmember Boyajian, seconded by Acting President Ronquillo, duly carried, RESOLVED, Environmental Assessment No. TA-00-02, a Negative Declaration prepared for this project hereby adopted; and the above entitled Bill No. B-68, Alternative No. 2, initiated by the Planning and Development Department Director approving Text Amendment No. TA-00-02, introduced before the Council and laid over to October 15, 2001, for adoption, by the following vote:

Ayes	:	Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea
Noes	:	None
Absent	:	None

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ADJOURNMENT

There being no further business to bring before the Council, the hour of 7:05 p.m. having arrived and hearing no objections, President Perea declared the meeting adjourned.

APPROVED on the 28th day of August, 2001.

ATTEST:_____

Henry Perea, Council President

Yolanda Salazar, Assistant City Clerk

138-76

8/21/01